

UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA

FAIR ISAAC CORPORATION, a ) Case No. 16-cv-1054(WMW/DTS)  
Delaware corporation, )  
 )  
 Plaintiff, )  
 )  
 v. )  
 )  
 FEDERAL INSURANCE COMPANY, an )  
 Indiana corporation, and ACE AMERICAN )  
 INSURANCE COMPANY, a Pennsylvania )  
 corporation, )  
 )  
 Defendants. )  
 )  
 )

**DECLARATION OF HEATHER J. KLIBENSTEIN IN SUPPORT OF  
PLAINTIFF FAIR ISAAC CORPORATION'S MOTION TO COMPEL**

I, Heather J. Kliebenstein, declare as follows:

1. I am a shareholder with Merchant & Gould P.C., and I am one of the attorneys of record for Plaintiff Fair Isaac Corporation in the above captioned matter.
2. I make this declaration on my own information, knowledge, and belief in support of Plaintiff's Motion to Compel.
3. Attached hereto as Exhibit 1 is a true and correct copy of Federal Insurance Company's Quarterly Statement as of March 31, 2016, produced as bates numbered document FED013563\_0001-0076 on August 31, 2018. This document is filed under seal.
4. Attached hereto as Exhibit 2 is a true and correct copy of a May 15, 2018 email from Fair Isaac Corporation's ("FICO") counsel Heather Kliebenstein to Federal

Insurance Company's ("Federal") counsel Lora Friedemann and Nikola Datzov. This email was part of a longer email string that has been shortened for space.

5. Attached hereto as Exhibit 3 is a true and correct copy of a May 21, 2018 email from Federal's counsel Nikola Datzov to FICO's counsel Heather Kliebenstein and Federal's counsel Lora Friedemann. This email was part of a longer email string that has been shortened for space.

6. Attached here to as Exhibit 4 is a true and correct copy of a May 24, 2018 email from Federal's counsel Leah Janus to Federal's counsel Nikola Datzov. This email was part of a longer email string that has been shortened for space.

7. Attached hereto as Exhibit 5 is a true and correct copy of a May 30, 2018 email from FICO's counsel Heather Kliebenstein to Federal's counsel Leah Janus and Nikola Datzov. This email was part of a longer email string that has been shortened for space.

8. Attached hereto as Exhibit 6 is a true and correct copy of a June 7, 2018 email from from Federal's counsel Christopher Pham to FICO's counsel Heather Kliebenstein, Michael Erbele, and Allen Hinderaker.

9. Attached hereto as Exhibit 7 is a true and correct copy a June 15, 2018 email from FICO's counsel Heather Kliebenstein to Federal's counsel Leah Janus, Nikola Datzov, Lora Friedemann, Christopher Pham, and Terrence Fleming. This email was part of a longer email string that has been shortened for space.

10. Attached hereto as Exhibit 8 is a true and correct copy of a June 19, 2018 email from Federal's counsel Christopher Pham to FICO's counsel Heather Kliebenstein,

Michael Erbele, and Allen Hinderaker. This email was part of a longer email string that has been shortened for space.

11. Attached hereto as Exhibit 9 is a true and correct copy of a June 28, 2018 email from Federal's counsel Christopher Pham to FICO's counsel Heather Kliebenstein, Allen Hinderaker, and Michael Erbele.

12. Attached hereto as Exhibit 10 is a true and correct copy of a July 13, 2018 email from FICO's counsel Heather Kliebenstein to Federal's counsel Terrence Fleming, Christopher Pham, Leah Janus, Lora Friedemann, and Nikola Datzov.

13. Attached hereto as Exhibit 11 is a true and correct copy of a July 19, 2018 email from FICO's counsel Heather Kliebenstein to Federal's counsel Terrence Fleming, Christopher Pham, Leah Janus, Lora Friedemann, and Nikola Datzov. This email was part of a longer email string that has been shortened for space.

14. Attached hereto as Exhibit 12 is a true and correct copy of a July 20, 2018 email from Federal's counsel Christopher Pham to FICO's counsel Heather Kliebenstein, Michael Erbele, and Allen Hinderaker. This email was part of a longer email string that has been shortened for space.

15. Attached hereto as Exhibit 13 is a true and correct copy of an August 1, 2018 email from FICO's counsel Heather Kliebenstein to Federal's counsel Christopher Pham. This email was part of a longer email string that has been shortened for space.

16. Attached hereto as Exhibit 14 is a true and correct copy of an August 6, 2018 email from FICO's counsel Heather Kliebenstein to Federal's counsel Christopher Pham. This email was part of a longer email string that has been shortened for space.

17. Attached hereto as Exhibit 15 is a true and correct copy of an August 10, 2018 email from Federal's counsel Christopher Pham to FICO's counsel Heather Kliebenstein. This email was part of a longer email string that has been shortened for space.

18. Attached hereto as Exhibit 16 is a true and correct copy of an August 20, 2018 email from FICO's counsel Heather Kliebenstein to the Honorable David Schultz's Chambers ([Schultzchambers@mnd.uscourts.gov](mailto:Schultzchambers@mnd.uscourts.gov)).

19. On August 29, 2018, I participated in a teleconference where the parties sought guidance from the Honorable David Schultz on the same topics as are briefed in the current motion.

20. On September 7, 2018, I participated in a teleconference with counsel representing Federal where FICO sought responsive documents and interrogatory responses.

21. On October 8, 2018, I participated in a teleconference with counsel representing Federal discussing ongoing discovery matters.

22. On October 22, 2018, I participated in a teleconference with counsel representing Federal where FICO sought responsive documents and interrogatory responses.

23. Attached hereto as Exhibit 17 is a true and correct copy of an October 26, 2018 email from Federal's counsel Christopher Pham to FICO's counsel Allen Hinderaker, Heather Kliebenstein, and Michael Erbele.

24. On November 6, 2018, I participated in a teleconference with counsel representing Federal where Federal stated it continued to work on preparing full responses to Interrogatory Nos. 15-20; that it had no documents in response to Req. for Production 55-70; and it was investigating the existence of documents in response to Req. for Production 30-32.

25. Attached hereto as Exhibit 18 is a true and correct copy of excerpts of Federal Insurance Company's Response to Plaintiff's First Set of Requests for Production of Documents ([Nos. 1- 50]), served May 11, 2017.

26. Attached hereto as Exhibit 19 is a true and correct copy of Federal Insurance Company's Supplemental Response to Plaintiff's Requests for Production of Documents Nos. 30-32 and 55-71, served on June 7, 2018.

27. Attached hereto as Exhibit 20 is a true and correct copy of Plaintiff Fair Isaac Corporation's Second Set of Interrogatories to Defendant Federal Insurance Company (15-21), served on December 29, 2017.

28. Attached hereto as Exhibit 21 is a true and correct copy of Defendant's Answers to Plaintiff's Second Set of Interrogatories (Nos. 15-21), served on January 30, 2018, signed on January 29, 2018.

29. Attached hereto as Exhibit 22 is a true and correct copy of Federal Insurance Company's Supplemental Answer to Interrogatory No. 17, served October 26, 2018.

30. Attached hereto as Exhibit 23 is a true and correct copy of Federal Insurance Company's Supplemental Answer to Interrogatory No. 18, served October 26, 2018.

31. Attached hereto as Exhibit 24 is a true and correct copy of Federal Insurance Company's Supplemental Answer to Interrogatory No. 19, served October 26, 2018.

32. Attached hereto as Exhibit 25 is a true and correct copy of Federal Insurance Company's Supplemental Answer to Interrogatory No. 20, served October 26, 2018.

33. Attached hereto as Exhibit 26 is a true and correct copy of Federal Insurance Company's Second Supplemental Answers to Interrogatory Nos. 2, 3, and 4, verified on July 30, 2018.

34. Attached hereto as Exhibit 27 is a true and correct copy of an December 2, 2015 email from Lance Martin to [ccmccarthy@chubb.com](mailto:ccmccarthy@chubb.com), [rapandey@chubb.com](mailto:rapandey@chubb.com), [riskols@chubb.com](mailto:riskols@chubb.com), [jkebbekus@chubb.com](mailto:jkebbekus@chubb.com), and [akisling@chubb.com](mailto:akisling@chubb.com), produced as bates numbered document FED009630\_0001, and an excerpt of an attachment to the email entitled ACE Chubb Valuation from December 2015.xlsx, produced as bates numbered document FED009631\_0001, served on March 22, 2018. This document is filed under seal.

35. Attached hereto as Exhibit 28 is a true and correct copy of an excerpt of Chubb Limited Annual Report 2016, produced as bates numbered document FED000061\_0001-0304 on May 11, 2017. Highlighting emphasis has been added.

36. Attached hereto as Exhibit 29 is a true and correct copy of a October 9, 2013 email from John Sarnese to Patrick Sullivan, produced as bates numbered document FED012301\_0001, and an excerpt of a document attached to it entitled “Enterprise Platform Application Usage Matrix\_10\_7\_2013.xlsx,” produced as bates numbered document FED012303\_0001, served on March 22, 2018. This document is filed under seal.

37. Attached hereto as Exhibit 30 is a true and correct copy of a May 9, 2017 email from Lance Martin to Tamra Pawloski, produced as bates numbered document FED010033\_0001, and an excerpt of a document attached to it entitled “chear applications and technologies\_May 2017.xlsx,” produced as bates numbered document FED010034\_0001, served on March 22, 2018. This document is filed under seal.

38. Attached hereto as Exhibit 31 is a true and correct copy of an excerpt of Defendant’s Response to Plaintiff’s Second Set of Requests for Production of Documents [(Nos. 51-71)], served on January 30, 2018, signed on January 29, 2018.

39. Attached hereto as Exhibit 32, is a true and correct copy of correspondence from Federal’s counsel Lora M. Friedemann to FICO’s counsel Allen Hinderaker and Michael Erbele, dated June 16, 2017.

40. On October 22, 2018, I participated in a teleconference with Federal’s counsel where counsel informed me that it had searched for responsive documents from Amy Bell, Carla Owens, and Edward Tornick.

41. Attached hereto as Exhibit 33 is a true and correct copy of an excerpt of the July 31, 2018 Fed. R. Civ. P. 30(b)(6) deposition of Henry Mirolyuz.

42. Attached hereto as Exhibit 34 is a true and correct copy of Business Requirements Document: Decision Point: Add Coverage, produced as bates numbered document FED005306\_0001-0024 on February 7, 2018. This document is filed under seal.

43. Attached hereto as Exhibit 35 is a true and correct copy of Defendant's Response to Plaintiff's Second Set of Requests for Admission [(Nos. 13-28)], served on January 30, 2018, signed January 29, 2018.

I declare under penalty of perjury that the foregoing is true and correct.

November 13, 2018

/s/ Heather J. Kliebenstein  
Heather J. Kliebenstein